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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,377	08/28/2000	Sergey Matasov		9553

7590 06/03/2004
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EXAMINER

LEUBECKER, JOHN P

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/509,377

Applicant(s)

MATASOV, SERGEY

Examiner

John P. Leubecker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14, 16 and 18-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14, 16 and 18-20 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

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Priority

1. As pointed out in the previous Office Action, Applicant can not claim priority to Inventor's Certificate SU 1522466. However, the first paragraph of the specification still refers to such as a priority document. Reference to such document should be deleted.

Specification

2. It is noted that the amendment to the specification on page 3, line 12, received September 3, 2003 has not been entered into the specification (apparently the entire amendment was not entered due to the Notice of Non-Compliant Amendment). However, if the above mentioned amendment was made to the specification, it would constitute new matter and would be rejected accordingly.

3. The disclosure is continued to be objected to due to the enormous amount of grammatical and idiomatic errors. The entire specification needs to be revised. The amount of changes to be made will warrant a substitute specification. No new matter should be entered.

Appropriate correction is required.

Claim Objections

4. Claims 9, 16, 18 and 19 are objected to because of the following informalities: in claim 9, "hermetizes" is not a word—should be --hermetically seals--; in claim 16, "a distal drives" is improper and should be --distal drives--; in claim 18, phrase "a biopsy forceps which are" should

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be --a biopsy forceps which includes--; in claim 19, "drive of traction" should be --drive of a traction--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 3, 5, 7, 8 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a) The original disclosure fails to support the degree of compactness as now claimed in claims 3 and 8.

b) The original disclosure fails to support the relative length of the shell (of rectum) as now claimed in claims 5 and 7.

c) If "removable" is intended to be "removable from the endoscopic tube", the original disclosure fails to support the "removable tip" of claim 11.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claims 4, 5, 7, 9, 11 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 4 and 7, term "the uneverted end of said invaginator" lacks antecedent basis.

As to claim 5, the scope of "commensurate...to the length of rectum" is indefinite.

As to claim 9, term "the everted part of said invaginator" lacks antecedent basis.

Furthermore, it appears that the recited "seal" is referring to the "seal" previously recited in claim 7. If so, recitation of a seal in claim 9 should be referring back to such seal.

As to claim 11, "removable" is indefinite with respect to what it is removable.

As to claim 18, term "a piston of a biopsy channel" is indefinite.

As to claim 19, term "biopsy forceps" lacks antecedent basis.

Claim Rejections - 35 USC § 102

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

10. Claims 1-8, 10, 12, 14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Matasov (Inventors Certificate SU 1522466) for the reasons set forth in numbered paragraph 11 of the previous Office Action, paper number 20. As to claim 20, the pressurized everting tube forms a "mechanism for introduction of an endoscopic tube which is a cylinder/piston unit connected to the pressure of gas or liquid".

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11. Claims 1-8, 12 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Bob et al. (U.S. Pat. 5,259,364) for the reasons set forth in numbered paragraph 12 of the previous Office Action, paper number 20. As to claim 20, the pressurized everting tube forms a "mechanism for introduction of an endoscopic tube which is a cylinder/piston unit connected to the pressure of gas or liquid".

Claim Rejections - 35 USC § 103

12. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

13. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Matasov in view of Wilk et al. (U.S. Pat. 5,396,879) and additionally as being unpatentable over Bob et al. in view of Wilk et al for the reasons set forth in numbered paragraph 14 of the previous Office Action, paper number 20.

Response to Arguments

14. Applicant provided no arguments.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

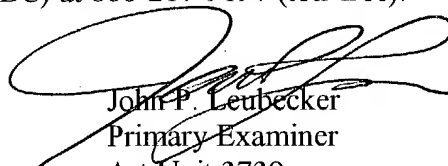
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (703) 308-0951. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (703) 308-0994. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John P. Leubecker
Primary Examiner
Art Unit 3739

jpl